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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,079	12/30/2003	Marcus C. Koepke	087522-785-349	6881

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EXAMINER

D ADAMO, STEPHEN D

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,079

Applicant(s)

KOEPKE ET AL.

Examiner

Stephen D'Adamo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/5/2004.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-4, 6-13 and 18-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 3, "said receiving means" lacks antecedent basis. Terminology must be consistent throughout the claims. Therefore, "a means for receiving" recited in claim 2 must be consistent with "said receiving means" recited in claim 3. Claim 8 also lacks antecedent basis for "said receiving means."

Similarly, claim 6 lacks antecedent basis for "said locking means".

Claim 8 lacks antecedent basis for "said receiving means" and "said engaging means."

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 1-6 and 14-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Vanderminden et al. (2003/0234566).

Regarding claims 1-4, Vanderminden discloses an “adjustable swivel rocker” comprising a base 11 including an upstanding stem 12, a seat plate 14 mounted and supported above the base, a seat pan 30 and 31 and longitudinally operating means 24 including upper legs 24 for sliding the seat pan in a longitudinal with respect to the seat plate. The seat pan includes means for receiving the longitudinal operating means with sleeves 31. The sleeves comprise of guide channels formed in the seat pan. The guide channel or sleeves are oriented in a longitudinal direction with respect to the chair.

In regards to claims 1 and 5-6, Vanderminden discloses an “adjustable swivel rocker” comprising a base 11 including an upstanding stem 12, a seat plate 24 mounted and supported above the base, a seat pan 30 and longitudinally operating means 31 for sliding the seat pan in a longitudinal with respect to the seat plate. The longitudinal operating means comprises means for locking the seat pan 30 in a fixed longitudinal position relative to the seat plate. Specifically, Vanderminden discloses, “a securing means is also provided for releasably securing each flexure 24 in a respective sleeve 31, for example, in a selected one of a plurality of positions” (paragraph 33, lines 1-4). The locking means including transversely movable means or bolts 36 for engaging the seat plate 24. “The securing means is in the form of a bolt 36 that passes through an elongated slot 37 in a sleeve 31 into threaded engagement with a flexure 24” (paragraph 33, lines 4-6).

Regarding claims 14 and 15, Vanderminden discloses a base 11 including an upstanding stem 12, a seat plate 24 supported above the base, a seat pan 30 slidably mounted to the

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seat plate in a longitudinal direction and a longitudinal operating activating arm 31 for sliding the seat pan 30 in a longitudinal direction with respect to the seat plate. The seat pan includes rivets 35 for receiving the longitudinal operating activating arm 31.

Claims 1-7 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen (2002/0074841).

Chen discloses a “structure for adjusting the distance between a seat and handlebar of an electric cart” comprising a base 110, a seat plate 10 supported above the base, a seat pan 120, including slide members 21 and 22, slidably mounted to the seat plate and longitudinal operating means, including grip 32 and locating slots 11, 12, 13, 14 for sliding the seat pan in a longitudinal direction with respect to the plate.

Regarding claims 2-4 and 14-17, the seat pan comprises a means for receiving 211 and 221 the longitudinal operating means. The receiving means are guide channels formed in the seat pan members 21 and 22. The guide channels are oriented longitudinally with respect to the chair.

In regards to claims 5-7, the longitudinal operating means also comprises means for locking 30 the seat pan in a fixed longitudinal position relative to the seat plate. The locking means 30 move transversely for engaging the seat plate 10. The transversely movable pin 30 is moved by the operating means or grip 32 described above.

Claims 1-3, 5 and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Crossman et al. (6,027,168).

Crossman discloses a “chair seat horizontal adjustment mechanism” comprising a base 18, a seat plate 24 supported above the base, a seat pan 38 slidably mounted to the seat

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plate and a longitudinal operating means 36, 40, and 76 for sliding the seat pan in a longitudinal direction with respect to the seat plate.

Regarding claims 2-3, the seat pan comprises a means for receiving the longitudinal operating means with slots or apertures 46. The slots or apertures 46 are also considered guide channels formed in the seat pan.

In regards to claims 5 the longitudinal operating means further comprises a locking means 36.

Regarding claims 14-16, Crossman discloses a "chair seat horizontal adjustment mechanism" comprising a base 18, a seat plate 24 supported above the base, a seat pan 38 slidably mounted to the seat plate and a longitudinal activating arm 80 for sliding the seat pan in a longitudinal direction with respect to the seat plate. The seat pan comprises a means for receiving the longitudinal operating activating arm 80 with slots or apertures 46. The slots or apertures 46 are also considered guide channels formed in the seat pan.

Allowable Subject Matter

3. Claims 8-13 and 18-26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Piretti (6,767,062), Phillips et al. (6,634,711), Horisawa (6,293,622), Chu et al. (6,135,556), Bauer et al. (5,596,910), Mathews et al. (5,035,466), Cole (2,141,262) and Balser (1,191,269) all show various features of the claimed invention

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 6:00-3:30, 2nd Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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January 21, 2005


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600